

March 9, 2016

National Freedom of Information Officer
United States Environmental Protection Agency
Office of Environmental Information,
Records, FOIA, and Privacy Branch
1200 Pennsylvania Avenue NW (2822T)
Washington, D.C. 20460

Regional Freedom of Information Officer
U.S. Environmental Protection Agency, Region 10
Office of Ecosystems, Tribal and Public Affairs
1200 6th Avenue ETPA-124
Seattle, WA 98101

**Re: Lower Willamette Group
Freedom of Information Act Request
Portland Harbor Superfund Site**

To Whom It May Concern:

This is a request for agency records under the Freedom of Information Act (FOIA), 5 U.S.C. § 552. Specifically, this request concerns United States Environmental Protection Agency (EPA) records related to the Portland Harbor Superfund Site (Site) in Oregon.

Throughout this request, the terms “agency records” and “records” are used interchangeably, and they are intended to have the broadest and most inclusive meaning possible under the FOIA. As such, the term “agency records” includes, but is not limited to, all documents, agreements, contracts, reports, analyses, memoranda, communications, emails, including email on personal accounts, transcripts, minutes, notes, bulletins, worksheets, schedules, calendars, drawings, photographs, renderings, figures, diaries, workpapers, presentations, data compilations, spreadsheets, databases, and communications created, received or obtained by EPA and under EPA’s control at the time of this request. *See U.S. Dep’t of Justice v. Tax Analysts*, 492 U.S. 136, 144-46 (1989).

Specifically, the terms “agency records” and “records” include, but are not limited to, all agency records in electronic, hard copy, or any other tangible or graphic format, however produced or

reproduced, including audio or video recordings. "Communications" means any and all recorded communications within, to, or from EPA (and to or from EPA's consultants and contractors working on the Site), including letters, electronic forms and submissions, emails, and text messages, including any attachment or enclosure included with the communication. "Communications" includes those communications generated by or contained on both government-issued and personal email accounts, computers, tablets, phones, and other electronic communication devices, whether or not sent or received under pseudonym or alias. "Communications" also includes any communications between EPA Region 10, EPA Headquarters (Headquarters), the Oregon Department of Environmental Quality (Oregon DEQ), and the U.S. Army Corps of Engineers (Corps). This request is for agency records of EPA as a whole, and it is therefore not limited to agency records of EPA Region 10.

On behalf of the Lower Willamette Group and its individual members (Arkema Inc., Bayer CropScience, Inc., BNSF Railway Company, City of Portland, Chevron U.S.A. Inc., Evraz Inc. NA, Gunderson LLC, Kinder Morgan Liquids Terminals, NW Natural, Phillips 66 Company, Port of Portland, Siltronic Corporation, TOC Holdings Co., and Union Pacific Railroad Company), I request copies of the following agency records:

1. From March 2012 to the date of this FOIA request, all EPA Region 10 and Headquarters records relating to EPA Region 10's or its consultants' methodology, analysis, quantification, and/or qualitative evaluation of (1) natural recovery rates, (2) use or non-use of models, projections or forecasts relating to the estimated time to achieve cleanup goals at the Site, (3) cost effectiveness of alternatives for the Site, (4) the effectiveness of alternatives at reducing risks to human health and the environment at the Site and how they compare to each other in this regard, (5) any other information used by EPA Region 10 and Headquarters to evaluate (a) the long-term effectiveness of alternatives, and (b) the short-term effectiveness of alternatives for the Site, including, but not limited to, impacts to businesses and the community associated with dredging and transport of contaminated material for off-site disposal.
2. All EPA Region 10 and Headquarters records relating to EPA Region 10's or its consultants' development and application of Remedial Action Levels and Preliminary Remedial Goals for the Site, including risk assessments and/or any other methodology, analysis, quantification, qualitative assessment or other consideration. This request includes all records relating to EPA's determination of reasonable maximum exposure scenarios (RMEs) in the risk assessment.
3. From March 2012 to the date of this FOIA request, all EPA Region 10 and Headquarters records relating to EPA Region 10's or its consultants' consideration, evaluation, or use of risk management principles during the development of the FS.
4. From March 2012 to the date of this FOIA request, all EPA Region 10 and Headquarters records relating to EPA Region 10's or its consultants' methodology, analysis, quantification, and/or qualitative assessments of the Site with respect to (1) the Site-

specific definition and application of “principal threat waste,” (2) requirements for treatment for “principal threat waste” or other remediation waste, (3) application of RCRA land disposal restrictions to “principal threat waste” material or other remediation waste, and (4) the evaluation of cost-effectiveness and risk reduction benefits relating to the identification, treatment, and disposal of “principal threat waste” or other remediation waste.

5. From March 2012 to the date of this FOIA request, all EPA Region 10 and Headquarters records relating to EPA Region 10’s or its consultants’ methodology, analysis, quantification, and/or qualitative assessments of the Site with respect to decision trees, technology assignments, or process options developed for the FS and EPA’s expected approach to these matters in remedy selection and remedial design.
6. From March 2012 to the date of this FOIA request, all EPA Region 10 and Headquarters records relating to methodology, analysis, quantification, and/or qualitative assessments of the relationship between the Site and sediment or other contamination in the Columbia River. In addition, please provide all records and communications relating to this question between EPA Region 10, its consultants, Headquarters, and any of the following: Oregon DEQ, Corps, Confederated Tribes and Bands of the Yakama Nation, the Confederated Tribes of the Grand Ronde Community of Oregon, the Confederated Tribes of Siletz Indians of Oregon, the Confederated Tribes of the Umatilla Indian Reservation, the Confederated Tribes of the Warm Springs Reservation of Oregon, and Nez Perce Tribe (including the staff, counsel, consultants and other representatives of these entities).
7. From March 2012 to the date of this FOIA request, all EPA Region 10 and Headquarters records relating to EPA Region 10’s or its consultants’ methodology, analysis, quantification, and/or qualitative assessments of the Site with respect to dredging production rates, construction time frames, and availability and location of potential transloading and disposal facilities.
8. From March 2012 to the date of this FOIA request, all EPA Region 10 and Headquarters records relating to EPA Region 10’s or its consultants’ evaluation of compliance with the National Contingency Plan and consistency with EPA sediment guidance during EPA’s preparation of the RI/FS .
9. All agency records related to EPA’s November 18, 2015 presentations to the Contaminated Sediments Technical Advisory Group (CSTAG) and National Remedy Review Board (NRRB) regarding the development of a Remedial Investigation, Feasibility Study, and Proposed Plan for the Site, and to comments received by EPA in response to EPA’s presentations. This request includes all records and comments received from the CSTAG, NRRB, any other public entity, and any private entity or person, including CDM and any other EPA contractor or consultant. This request also includes, but is not limited to, any communications to or from EPA regarding the presentation and such

comments, including communications to and from Oregon DEQ, the Corps, the Portland Harbor Community Advisory Group, Willamette Riverkeeper, and other individuals and groups regarding the NRRB review.

If a given agency record is responsive to more than one individual request or is found in more than one location, EPA need not provide multiple copies or duplicates of the same record.

We will accept responsibility for the reasonable and necessary costs associated with EPA's response to this request, including reasonable standard charges for document searching and duplication, up to a maximum amount of \$1,000.00. See 5 U.S.C. § 552(a)(4)(A)(ii)(III); 40 C.F.R. § 2.102(d). If EPA determines that the reasonable and necessary costs of responding to this request will exceed \$1,000.00, please contact us as soon as possible to discuss payment. If for some reason copies of certain records cannot be made or provided, we request an opportunity to view and inspect those records.

We invite you to contact us as soon as possible to arrange for delivery of the agency records requested. In the meantime, we appreciate your prompt attention to this request, and look forward to your response.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'LRD', is positioned above the typed name of the signatory.

Loren R. Dunn, Esq.,
on behalf of the Lower Willamette Group
and its above-named individual members.

cc: Lori Cora, U.S. EPA Region 10